



DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-82,074]

KOMAX SOLAR, INC.
A WHOLLY OWNED SUBSIDIARY OF KOMAX HOLDINGS AG
YORK, PENNSYLVANIA

Notice of Negative Determination
Regarding Application for Reconsideration

By applications received on November 12, 2012 and November 26, 2012, two workers independently requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers Komax Solar, Inc., a wholly owned subsidiary of Komax Holdings, AG, York, Pennsylvania (subject firm or Komax). The negative determination was issued on November 1, 2012. The Department's Notice of Determination was published in the Federal Register on November 26, 2012 (77 FR 70480).

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The workers of Komax were engaged in activities related to the production of solar panel production machines. The products manufactured at the subject firm are predominantly for export sale.

The petition stated that the workers were informed by the subject firm that the layoffs were a result of production shifting to a Komax facility in Asia. In the request for reconsideration, the workers again asserted that separations at Komax are attributable to a future shift of solar panel production to Asia.

Machines used to produce solar panels are not component parts of solar panels and are neither like nor directly competitive with solar panels.

The negative determination was based on the Department's findings that the subject firm did not shift to a foreign country the production of articles like or directly competitive with the solar panel production machines produced by the workers, or acquire the production of such articles from a foreign country; that the workers' separation, or threat of separation, was not related to any increase in imports by the subject firm of articles like or directly competitive with solar panel production machines; and that the workers' firm is not a supplier or a downstream producer to a firm that employed a group of workers who received a TAA certification.

The Department did not conduct a survey on the subject firm's declining domestic customers of solar panel production machines because sales to domestic customers increased during the relevant time period. Further, the articles manufactured at the subject firm during the relevant time period were almost entirely export sales.

One of the requests for reconsideration alleges "flooding of the market by underpriced Chinese solar modules." The Department notes that the International Trade Commission did not name Komax as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The workers in the requests for reconsideration did not supply facts not previously considered or provide additional documentation indicating that there was either 1) a mistake in the determination of facts not previously considered or 2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the applications and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 27th day of December, 2012

/s/ Del Min Amy Chen

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

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